

RECEIVED

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA

DEBRA R. WICKER, CLERK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA

ROBERT ANDREW WERMUTH, #189991, )  
Full name and prison number )  
of plaintiff(s) )

v. )

SHANNON CARROL YOUNGBLOOD, )  
MONTGOMERY POLICE OFFICER, AND: )  
R. D. CALHOUN, BADGE #1294, )  
MONTGOMERY POLICE OFFICER, et. )  
al., DEFENDANT(S). )

Name of person(s) who violated )  
your constitutional rights. )  
(List the names of all the )  
persons.) )

CIVIL ACTION NO. 2:05cv644-D  
(To be supplied by Clerk of  
U.S. District Court)

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same or similar facts involved in this action? YES (XXX) NO ( )
- B. Have you begun other lawsuits in state or federal court relating to your imprisonment? YES (XXX) NO ( )
- C. If your answer to A or B is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff(s) ROBERT ANDREW WERMUTH,

Defendant(s) JOE WHISANTE, MADISON COUNTY JAIL

2. Court (if federal court, name the district; if state court, name the county) NORTHERN DISTRICT

OF ALA., U.S. DISTRICT COURT, NORTHEAST DIVISION

3. Docket number 99-1642
4. Name of judge to whom case was assigned unkown to me
5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) DISMISSED
6. Approximate date of filing lawsuit 6-99
7. Approximate date of disposition 8-03

II. PLACE OF PRESENT CONFINEMENT EASTERLING CORRECTIONAL FACILITY;  
200 - WALLACE DRIVE; CLIO, ALABAMA 36017-2615

PLACE OR INSTITUTION WHERE INCIDENT OCCURRED IN MY DRIVEWAY  
WITHIN THE CITY LIMITS OF MONTGOMERY, ALABAMA

III. NAME AND ADDRESS OF INDIVIDUAL(S) YOU ALLEGE VIOLATED YOUR CONSTITUTIONAL RIGHTS.

NAME

ADDRESS

1. SHANNON CAROL YOUNGBLOD, MONT. POLICE DEPT., 320-RIPLEY STREET, MONTCOMERY, AL., 36104
2. R.D. CALHOUN, MONT. POLICE DEPT., 320-NORTH RIPLEY ST., MONTCOMERY, ALA., 36104
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

IV. THE DATE UPON WHICH SAID VIOLATION OCCURRED SEPTEMBER 30, 2003

V. STATE BRIEFLY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION THAT YOUR CONSTITUTIONAL RIGHTS ARE BEING VIOLATED:

GROUND ONE: DEFENDANTS YOUNGBLOD AND CALHOUN VIOLATED PLAINTIFF'S U.S.C.A. RIGHT  
AGAINST CRUEL AND UNUSUAL PUNISHMENT, CONST.-AMEND. #(8)

STATE BRIEFLY THE FACTS WHICH SUPPORT THIS GROUND. (State as best you can the time, place and manner and person involved.)

DEFENDANT'S YOUNGBLOOD AND CARROL, ON OR ABOUT SEPTEMBER 30

2003, AFTER GETTING OUT OF MY CAR, IN MY DRIVEWAY, I VOLUNTARILY

SURRENDERED MYSELF TO the POLICE AND LAID FACE DOWN ON THE

GROUND BEHIND MY VEHICLE IN MY DRIVEWAY. DEFENDANT'S YOUNGBLOOD

AND CALHOUN APPROACHED ME WITH HIS GUN DRAWN AND AT THAT POINT

GROUND TWO: ASSAULT WITH A VEHICLE WHILE TRYING TO STOP ME FOR A MISDEMEANOR IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

SUPPORTING FACTS: Plaintiff was allegedly being chased by the Defendant's for allegedly taking (36) cans of beer. Plaintiff was pursued through a residential neighborhood and one of the defendant's AND OR THEIR AGENTS SLAMMED HIS VEHICLE INTO MY VEHICLE ON TWO DIFFERENT OCCAISSIONS AND AT ONE TIME PUSHED ME THROUGH A FOUR LANE INTERSECTION PUTTING MY LIFE IN DANGER ALONG WITH

GROUND THREE: DEFENDANT'S ON OR ABOUT SEPTEMBER 30, 2003, ORDERED THEIR POLICE DOG TO ATTACK ME IN VIOLATION OF U.S.C.A. #(8).

SUPPORTING FACTS: WHILE LAYING ON THE GROUND FACE DOWN THE DEFENDANT/AND/OR THEIR AGENTS ORDERED THEIR POLICE DOG TO ATTACK ME WHEN I WAS NOT A THREAT TO SAID OFFICERS OR ANY OTHER INDIVIDUAL. DEFENDANT/AND/OR THEIR AGENTS BY PARTICIPATING OR EVEN LACK OF PARTICIPATION TO STOP THE ATTACK MADE ALL THE OFFICERS PRESENT CULPABLE. DEFENDANT SUFFERED BOTH MENTAL AND PHYSICAL INJURIES AND HAD TO

VI. STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU.  
MAKE NO LEGAL ARGUMENT. CITE NO CASES OR STATUTES.

PLAINTIFF HEREBY PRAYS THAT THIS COURT WILL GRANT THE FOLLOWING

RELIEF IN THIS INSTANT CASE AT BAR AS FOLLOWS:

SEE ATTACHD ADDENDUM FOR RELIEF:

x Robert Wermuth  
Signature of plaintiff(s)

I declare under penalty of perjury that the foregoing is true  
and correct.

EXECUTED on 9th July 2005.  
(Date)

x Robert Wermuth  
Signature of plaintiff(s)

N O T A R Y S T A E M E N T

STATE OF ALABAMA ]  
COUNTY OF BARBOUR ]

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 9 day of  
July, 2005.

B. K. Davis  
NOTARY PUBLIC

5-7-2006  
MY COMMISSION EXPIRES

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

ROBERT ANDREW WERMUTH,

PLAINTIFF,

-vs-

SHANNON CARROL YOUNGBLOOD,  
MONTGOMERY POLICE DEPARTMENT,  
R.D. CALHOUN, BADGE #1294,  
MONTGOMERY POLICE DEPARTMENT,  
ET. AL.,

DEFENDANTS.

CASE NUMBER: 2:05cv644-D  
ASSIGNED BY CLERK

I.

PRELIMINARY STATEMENT

This is a Civil Rights action filed by ROBERT ANDREW WERMUTH, a state prisoner, for damages and injunctive relief under 42 U.S.C., §1983, alleging excessive force and assault in violation of the Eighth Amendment to the United States Constitution.

Plaintiff also alleges the torts of assault and battery upon your Plaintiff by the herein named Defendant's and/or their agents.

II.

JURISDICTION

Your Plaintiff shows to this Court that this Court has jurisdiction over Plaintiff's claims of violation of federal constitutional rights under 42 U.S.C., §§ 1331(a) and 1341, and hereby invokes said statutes as jurisdiction for this Honorable Court to entertain and grant this instant "Complaint".

III.

SUPPLEMENTAL JURISDICTION

Plaintiff shows to this Court that this Court has Supplemental Jurisdiction over your Plaintiff's State Law tort claims pursuant to: 28 U.S.C., §1367, hence; Plaintiff further invokes this instant Statute as jurisdiction for this Court to grant unto your Plaintiff relief as prescribed by state statutes.

IV.

PARTIES

PLAINTIFF

At all times referred to in this instant "Complaint", ROBERT ANDREW WERMUTH, PRO-SE, shall be known as the Plaintiff whose current address is as follows:

EASTERLING CORRECTIONAL FACILITY  
ATTN: ROBERT ANDREW WERMUTH, PRO-SE  
ECF \* #189991 \* DORM - 6/B-38  
200 - WALLACE DRIVE  
CLIO, ALABAMA  
36017-2615

JULY, 2005  
DEFENDANT(S):

At all times referred to within this instant: Complaint, **SHANNON CARROLL YOUNGBLOOD**, shall be known as a Defendant whose current work address is known to your Plaintiff, as follows:

SHANNON CARROL YOUNGBLOOD  
C/O MONTGOMERY CITY POLICE DEPARTMENT  
320-NORTH RIPLEY STREET  
MONTGOMERY, ALABAMA  
36104

(3).

At all times referred to within this instant Complaint, **R.D. CALHOUN**, shall be known as a defendant in this whose current work address is known to your Plaintiff as follows:

R.D. CALHOUN, PRO-SE  
C/O MONTGOMERY CITY POLICE DEPARTMENT  
320-NORTH RIPLEY STREET  
MONTGOMERY, ALABAMA  
36104

(4).

OTHER DEFENDANTS:

Defendants A, B, and C are fictitious nmaes intended to represent the Defendant sued if Shannon Carrol Youngblood and R.D. Calhoun are not the correct names of said defendants in this instant case at bar.

The correct name(s) of said defendant(s) will be substituted for Defendant A, B, and C, when ascertained., if necessary.

Defendants D, E, and F is that person, corporation, or partnership or venture whose deliberate indifference, negligence and/or wantonness and/or intentional act caused the herein named Plaintiff to be seriously injured with permanent injuries and scars of Robert Andrew Wermuth described within this instant Complaint by deliberate indifference, negligence, and/or wantonly and/intentionally causing the acts and constitutional violations described in this instant "Complaint" and/or who or which in any manner whatsoever caused the the injuries and constitutional violataions by The Plaintiff; whose true names are otherwise unknown but will be substituted by amendment when ascertained.

Plaintiff further shows to this Court that Defendants A, B, C, D, and E are fictititious defendants whose true and more proper

names have not been determined as of the filing of the Plaintiff's lawsuit, which names will be properly substituted by amendment hereto when the same are ascertained.

DEFENDANT YOUNGBLOOD

Defendant Youngblood is and was a Montgomery Police Officer employed by the Montgomery City Police Department while your Plaintiff was being attacked by said Police Officer and the Police Dogs, and/or Defendant's Agents during the course of events outlined in this instant "Complaint".

Also, the herein named defendant, arbitrarily and capriciously violated your Plaintiff's constitutional, both State and Federal, and, further violation of Alabama and the Federal Government during the course of events herein stated in this instant "Complaint".

Defendant Youngblood is being sued in his individual capacity at this time.

DEFENDANT CALHOUN

Defendant Calhoun is and was a Montgomery Police Officer employed by the Montgomery Police Department at the time of the events related to your Plaintiff as stated within this instant "Complaint".

Defendant Calhoun, whose duty is to protect and serve the public arbitrarily and capriciously violated your Plaintiff's State and Federal Constitutional Rights, as well as State and Federal Statutes as outlined during the course of events outlined by Plaintiff in this instant "Complaint".

Defendant Calhoun is being sued in his individual capacity at this time.

V.

GROUND AND SUPPORTING FACTS

ADDENDUM V GROUND # 1  
CONTINUED FROM PAGE # 2 & 3:

said officer(s) knelt down on top of my back with gun(s) in their hands and while in this position another officer approached me and released a police dog and told said dog to attack me.

Plaintiff shows to this Court that your plaintiff was cooperating with the officers and was laying face down with arms in plain view of the officers.

Plaintiff further shows to this Court that without warning the defendant(s) ordered the police dog to attack your Plaintiff.

During this attack Plaintiff was so severely attacked that your plaintiff needed immediate medical attention.

Plaintiff shows to this Court that said events transpired on or about September 30, 2003.

GROUND # 2:

along with other motorists who were put in danger. Said defendnt(s) and or their agents ran into the back of my vehicle twice in an attempt to cause me to crash and as such caused damage to my vehicle.

This incident happend at the intersection of Hill and Day Street on or about September 30, 2003.

Defendant were careless and reckless about their actions not only to myself but to other motorists in the area.

Plaintiff shows to this Court that the Montgomery Police Department and or their agents are known to beat, misuse force, and, put motorists at danger during their [REDACTED] [REDACTED] pursuit, all for (36) cans of beer.

GROUND # 3:

have immediate medical attention, which, your Plaintiff, to this day and for the rest of his life will severe scars from the attack by the defendant's police dog.

Plaintiff further shows to this Court that this attack started with the defendant's and or their agents command to attack your Plaintiff.

Plaintiff further shoiws to this Court that the attack lasted for (3-5) minutes and I was scared for my life while the defendant's and their agents watched your Plaintiff being attacked, and, the whole time I was scared for my life and in terrible pain from the police dog's attack upon the Plaintiff.

Plaintiff futher shows to this Court that said defendant(s) and or their agents stood around and watched as the commenced and continued against your plaintiff while the officers stood around and watched and noone would come to your plaintiff's aid even though I begged then several times to please stop the attack against me.

IV.

ADDENDUM VI.

CONTINUED FROM PAGE # 4:

RELIEF

The actions by the defendant(s) and or their agents in using physical force, not only by the defendants but specifically by defendant's actions to order the police dog to attack me.

Said Attack against the plaintiff was witout need or provocation and failing to intervene to prevent the misuse of force were

were done maliciously and sadistically and constituted cruel and unusual punishment in violation of the eighth (8th) Amendment of the United States Constitution.

**WHEREFORE,** Plaintiff requests that the court grant the following relief:

A). ISSUE DECLARTORY JUDGEMENT STATING THAT:

- 1). The physical abuse of the Plaintiff by defendants Calhoun and Youngblood violated the Plaintiff's Rights under the Eighth Amendment to the United States Constitution and constituted an assault and battery under state law, and;
- 2). Defendant(s) Youngblood, Calhoun, and or their agent's failure to take action to curb the physical abuse of prisoners violated Plaintiff's Eighth Amendment to the United Sates Constitution and constituted an assault and battery under state law.

B). ISSUE AN INJUNCTION ORDERING THE DEFENDANTS AND OR THEIR AGENTS TO DO THE FOLLOWING:

- 1). Immediately arrange for the Plaintiff to have plastic or reconstructive surgery on all the scars your Plaintiff has from the vicious attacks caused by the defendants and or their agents, and;
- 2). To immediately arrange for your Plaintiff to have rehabilitation on his arms and any other places as to where the Plaintiff was viciously attacked by the Defendants and or their agents, and;
- 3). Arrange to have Plaintiff retrained, at the expense of the defendants and or their agents, for another vocation, as PLaintiff is a construction worker and has been trained as such, but, since the vicious attacks by defendants and their agents, Plaintiff's current vocation may be in jeopardy, and;
- 4). Immediately arrange for Plaintiff to have counseling concerning the vicious and unwarranted attacks against your Plaintiff as said attack was traumatic and Plaintiff suffers with nightmares, lack of sleep, and several other mental health problems that your Plaintiff now suffers from that your Plaintiff did not suffer from before the defendants and or their agents viciously and without cause attacked your Plaintiff, and;
- 5). Arrange an apology from the defendants and or their agents to apologize to your Plaintiff for viciously and without cause, attacking your Plaintiff, and;
- 6). Order an investigation into the Montgomery Police Department to see how many other individuals may have been been vicioulsy attacked by the defendants and or their agents, and;
- 7). Order and implement new regulations, guidelines, and, any other training that may be necessary to retrain the

on the use of force, use of dogs, and pursuit, especially in a case involving non-violent offenders, and, misdemeanors as in your Plaintiff's instant case at bar, where Plaintiff's vehicle was rammed and damaged by police cars, the defendants and or their agents viciously and without cause attacked your Plaintiff over (36) cans of beer, these types of incidents are reminiscent of the (50's) and (60's) when it was standard practice in Alabama to order attack dogs on African-Americans.

C). AWARD COMPENSATORY DAMAGES IN THE FOLLOWING AMOUNTS:

- 1). \$100,000 jointly and severally against defendants Calhoun and Youghblood for the physical and emotional injuries sustained by the Plaintiff as a result of the vicious attacks upon the Plaintiff, and;
- 2). \$100,000 jointly and severally against defendant Calhoun and Youngblood for payment to retrain your Plaintiff in a vocation now suited to your Plaintiff after the unwarranted and vicious attack caused by the defendants, and;
- 3). \$100,000 jointly and severally against defendant Calhoun and Youngblood for mental health evaluation and counseling and medication that your Plaintiff shall need to aid your Plaintiff through the trauma that your Plaintiff has suffered from the unwarranted and vicious caused by the defendant, and;
- 4). \$200,000 dollars for lost wages that your plaintiff will lose from the vicious and unwarranted attack that the defendants caused upon the plaintiff, and;
- 5). \$2,000 dollars jointly or severally from the damaging your Plaintiff's vehicle from their ramming the Plaintiff's vehicle unnecessarily over (36) cans of beer, and;
- 6). \$200,000 against defendants Calhoun and Youngblood for reconstructive surgeries and physical therapy for the unwarranted and vicious attack upon your Plaintiff.

D). AWARD PUNITIVE DAMAGES IN THE FOLLOWING AMOUNTS:

- 1). \$300,000 dollars against Defendant Youngblood, and;
- 2). \$300,000 Dollars against Defendant Calhoun.

E). ORDER THE DEFENDANTS TO DO THE FOLLOWING:

- 1). To be retrained at their expense on how to read license plate numbers and instead of ramming police cars, endangering the public, not to damage the public's vehicles, property, and individuals lives over (36) cans beer, and;
- 2). Teach the defendants how to use a police radio and/or Computer so that once the defendants read the license plate of a suspect they can call or access the computer to see where the suspect lives and not have destroy city

vehicles, public vehicles, viciously and unwarrantly attacking suspects, and, endangering the lives and property of the public over (36) cans of beer.

- F). ASSIGN ALL COURT COSTS AND FEES TO THE DEFAULTING PARTY TO INCLUDE, BUT NOT LIMITED TO PLAINTIFF'S EXPENSES.
- G). GRANT WHAT FURTHER RELIEF THIS COURT DEEMS JUST, PROPER, AND NECESSARY.

Executed this the 9<sup>th</sup> day of July, 2005.

Respectfully Submitted,

x Robert Wermuth  
ROBERT A. WERMUTH,  
PLAINTIFF, PRO-SE

N O T A R Y   S T A T E M E N T

STATE OF ALABAMA ]

COUNTY OF BARBOUR ]

SWORN TO AND SUBSCRIBED BEOFRE ME THIS THE 9 DAY OF

July, 2005.

B. K. Jarvis  
NOTARY PUBLIC

5-7-2006  
MY COMMISSION EXPIRES